

Chapter 200 Types, Cross-Noting, and Status of Application

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201 Types of Applications

Patent applications fall under three broad types: (1) applications for patent under 35 U.S.C. 101 relating to a "new and useful process, machine, manufacture, or composition of matter, etc."; (2) applications for plant patents under 35 U.S.C. 161; and (3) applications for design patents under 35 U.S.C. 171. The first type of patents are sometimes referred to as "utility" patents or "mechanical" patents when being contrasted with plant or design patents. The specialized procedure which pertains to the examination of applications for design and plant patents will be treated in detail in Chapters 1500 and 1600, respectively.

201.01 Sole

An application wherein the invention is presented as that of a single person is termed a sole application.

201.02 Joint

A joint application is one in which the invention is presented as that of two or more persons.

201.03 Convertibility of Application [R-49]

37 CFR 1.45. (b) If an application for patent has been made through error and without any deceptive intention by two or more persons as joint inventors when they were not in fact joint inventors, the application may be amended to remove the names of those not inventors upon filing a statement of the facts verified by all of the original applicants, and an oath or declaration as required by § 1.65 by the applicant who is the actual inventor, provided the amendment is diligently made. Such amendment must have the written consent of any assignee.

The required "statement of the facts verified by all of the original applicants" must include at the least, a recital of the circumstances, including the relevant dates, of (1) the misjoinder and (2) the discovery of the misjoinder. Without such a showing of circumstances, no basis exists for a conclusion that the application had been made in the names